

ELC 8.10
APPOINTMENT OF COUNSEL FOR RESPONDENT

(a) Appointment of Counsel for Respondent. If counsel for the respondent does not appear within the time for filing an answer, or as may otherwise be required, under Title 8 of these rules, or upon an order of further proceedings or a hearing under rule 9.2(e)(3), the Chair must appoint an active member of the Association as counsel for the respondent.

(b) Counsel's Rule. Counsel appointed for respondent shall act as an advocate for their client and shall not substitute counsel's own judgment for that of the client.

(c) Withdrawal of Appointed Counsel. Counsel appointed under this rule may withdraw only upon authorization from the Chair, upon a showing of good cause.

(d) Action Upon Withdrawal of Appointed Counsel. Upon authorizing appointed counsel to withdraw, the Chair will determine whether to appoint other counsel to represent the respondent, or, upon a finding that there is no reasonable chance that other counsel will be able to represent the respondent and that appointment of counsel would be futile, may recommend to the Board that the respondent be transferred to disability inactive status. The Board will review any order of the Chair recommending transfer to disability inactive status because appointment of counsel would be futile and may either affirm such order or direct that substitute counsel be appointed for the respondent. An unrepresented respondent may not participate in this review by the Board unless specifically authorized by the Chair to participate. The respondent may seek review under rule 12.3 of an order of the Board recommending transfer to disability inactive status under this rule but must be represented by counsel for purposes of such motion unless specifically authorized to proceed without representation by the Chair.

[Adopted effective January 1, 2014.]
